

PATENT COOPERATION TREATY

PCT

DECLARATION OF NON-ESTABLISHMENT OF INTERNATIONAL SEARCH REPORT

(PCT Article 17(2)(a), Rules 13ter.1(c) and Rule 39)

Applicant's or agent's file reference JN/P9906WO	IMPORTANT DECLARATION	Date of mailing(day/month/year) 17/06/2004
International application No. PCT/GB2004/000647	International filing date(day/month/year) 19/02/2004	(Earliest) Priority date(day/month/year) 21/02/2003
International Patent Classification (IPC) or both national classification and IPC G11B20/00		
Applicant MACROVISION EUROPE LIMITED		


This International Searching Authority hereby declares, according to Article 17(2)(a), that no international search report will be established on the international application for the reasons indicated below

1. ☐ The subject matter of the international application relates to:
 - a. ☐ scientific theories.
 - b. ☐ mathematical theories
 - c. ☐ plant varieties.
 - d. ☐ animal varieties.
 - e. ☐ essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes.
 - f. ☐ schemes, rules or methods of doing business.
 - g. ☐ schemes, rules or methods of performing purely mental acts.
 - h. ☐ schemes, rules or methods of playing games.
 - i. ☐ methods for treatment of the human body by surgery or therapy.
 - j. ☐ methods for treatment of the animal body by surgery or therapy.
 - k. ☐ diagnostic methods practised on the human or animal body.
 - l. ☐ mere presentations of information.
 - m. ☐ computer programs for which this International Searching Authority is not equipped to search prior art.
2. ☒ The failure of the following parts of the international application to comply with prescribed requirements prevents a meaningful search from being carried out:

<input checked="" type="checkbox"/> the description	<input checked="" type="checkbox"/> the claims	<input type="checkbox"/> the drawings
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3. ☐ The failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions prevents a meaningful search from being carried out:

<input type="checkbox"/> the written form has not been furnished or does not comply with the standard.
<input type="checkbox"/> the computer readable form has not been furnished or does not comply with the standard.
4. ☐ The failure of the tables related to the nucleotide and/or amino acid sequence listing to comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions prevents a meaningful search from being carried out:

<input type="checkbox"/> the written form has not been furnished.
<input type="checkbox"/> the computer readable form has not been furnished or does not comply with the technical requirements.
5. Further comments:
see further information PCT/ISA203

Name and mailing address of the International Searching Authority  European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Authorized officer Patricia Klingens-Herklots
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FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 203

No meaningful search of the present application can be carried out for the following reasons:

A) Lack of disclosure of the application (Article 5 and Rule 5 PCT) .

Independent claims 1, 16, 29, 32 and 35 are directed to the incorporation of DSV data patterns in an application file to provide copy protection for the application.

A.1) The DSV data patterns are not disclosed in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art (Article 5 PCT).

Indeed, none of the references to the DSV data patterns provided for in the description give a single example (Rule 5.1(a)(iii) and (v) PCT) of DSV patterns which would lead to DSV problems for optical disc writers. See specifically page 1, lines 33-35; page 2, lines 17-21; page 9, lines 2-3; page 9, lines 8-9; page 10, lines 3-9; page 11, lines 14-16; page 12, lines 2-4; page 12, lines 19-21; page 14, lines 31-32.

The description only mentions the effects of these DSV patterns, but does not disclose the DSV patterns themselves.

A.2) The document W00211136 cited in the application does not provide any further disclosure which would enable the skilled person to carry out the invention. Indeed, it contains the same vague and imprecise statements as the application, see e.g page 3, line 19-page 4, line 20; page 12, lines 28-30. The only example about possible DSV data patterns is found in figs 7a and 7b, and the description page 14, line 34-page 15, line 3. However, these two latter references only show the changes of the first 4 bytes among 2048 bytes of data, and it is impossible for the skilled person to decide from this example

- whether the changes were applied only to those 4 bytes,
- or whether the changes were applied to other portions of the same 2048-byte block as well, maybe possibly to the whole block,
- what the exact nature of the changes is (random flip of bits or fixed specific rules).

As a consequence, W00211136 does not provide the skilled person with an enabling embodiment of DSV data patterns (Rule 5.1(a)(iii) and (v) PCT).

A.3) The description of the present application does not disclose the "sophisticated encoders" in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art (Article 5 PCT). The application, and more specifically the references on page 11, lines 27-30 and page 12, lines 21-27, does indeed not provide any explanation as to how such encoders can be designed to choose non-optimal merge bits as mastering stage in order to ensure readability of the application file into which the DSV data patterns were incorporated. Therefore the description does not provide the skilled person with an enabling embodiment of the "sophisticated encoders" of the invention (Rule 5.1(a)(iii) and (v) PCT).

A.5) Consequently, no meaningful search can be conducted because of lack of disclosure of the application (Article 5 and Rule 5 PCT)

B) In addition to this, independent claims 43-46 rely on the references to drawings, which is forbidden by rule 6.2(a) PCT, and the DSV data

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patterns of claims 1, 16 and 35 rely on the reference to the description "as hereinbefore defined", which is also forbidden by rule 6.2(a) PCT.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.